

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Fagen, Inc., a Minnesota corporation, and
Midwest Ethanol Transport, LLC, a
Minnesota limited liability company,

CIVIL No. 12-CV-02703 (MJD/SER)

Plaintiffs,

vs.

Exergy Development Group of Idaho, L.L.C.,
an Idaho limited liability company,
James T. Carkulis, individually, and
Elizabeth Woolstenhulme, individually,

Defendants.

**ORDER
REGARDING MOTION FOR
TEMPORARY RESTRAINING ORDER
(ECF DOCKET NO. 7)**

This matter came before the Court on the stipulation of the parties submitted November 1, 2012. Based upon the Stipulation agreed to by the parties and filed as ECF Docket No. 15

IT IS HEREBY ORDERED that:

1. Defendants stipulate and agree that Fagen, Inc. (“Fagen”) has acquired ownership of Exergy Minnesota Holdings, LLC n/k/a Blue Earth Minnesota Holdings, LLC (“Exergy Minnesota”) through transactions it entered into with Defendant Exergy Development Group of Idaho, L.L.C. Accordingly, none of the Defendants assert any present ownership or control of Exergy Minnesota, and they hereby waive and disclaim any right to assert or seek future ownership or control of Exergy Minnesota.

2. The Parties further acknowledge that Fagen has transferred ownership of Exergy Minnesota to Midwest Ethanol Transport, LLC (“Midwest”), and none of the Defendants challenge the validity of that transfer of ownership.

3. The Parties further stipulate and agree that because Exergy Minnesota is the sole member of Minnesota Wind Partners I, LLC (“Minnesota Wind”), and Minnesota Wind is the

sole member of Big Blue Wind Farms, LLC (“Big Blue”) and Big Blue owns Big Blue Wind Farm Project being constructed near Blue Earth, Minnesota (“the Project”), Midwest now has sole ownership and control of the Project.

4. The Parties stipulate and agree that, although Defendants are stipulating that Fagen took ownership of the Project and that Midwest currently owns the Project, Defendants reserve their rights to pursue claims against Fagen and Midwest that do not involve contesting ownership of the Project, including claims, for damages only, based on a contention that Fagen’s acquisition of ownership did not comply with applicable law. Nothing in this Stipulation is intended to constitute an admission by any Party that the manner in which the Plaintiffs took ownership of the Project was lawful or unlawful, but no Party will seek to invalidate the transaction.

5. Defendants stipulate and agree that they will take no action purporting to be on behalf of the Project, that they will not instruct others to do so, and that they will make no communications to any party that they have ownership of, responsibility for, or are acting on behalf of, the Project, except with advance written authorization from Plaintiffs. Defendants will promptly refer any and all inquiries about the Project to Jennifer Johnson, Chief Financial Officer of Plaintiffs.

6. By stipulation, Plaintiffs’ Motion for Temporary Restraining Order or Preliminary Injunction is withdrawn and is removed from the Court’s calendar.

SO ORDERED

DATED: November 12, 2012

BY THE COURT:

s/ Michael J. Davis

Michael J. Davis

Chief Judge of District Court